

APR 19 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of

NIKOLICH et al.

Group Art Unit: 1653

Application No. 10/733,691

Examiner: not known

Priority claimed from: U.S. Provisional applications 60/433,164 (filed December 12, 2002), and 60/503,016 (filed September 15, 2003)

Filed: December 11, 2003

For: Immunogenic Compositions Including Rough Phenotype Brucella Host Strains and Complementation DNA Fragments

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April 15, 2004

PETITION FOR ACCEPTANCE OF CERTAIN PAGES
OF APPLICATION SAID TO BE OMITTED, AND PETITION FOR
RETENTION OF DECEMBER 11, 2003 FILING DATE FOR THESE PAGES

Hon. Commissioner of Patents
And Trademarks
P.O. 1450
Alexandria, VA 22313

Sir:

In connection with the above-identified application, and **responsive to the Notice to File Missing Parts of Nonprovisional Application**, we request that pages 29-35 of the specification be accepted and accorded a filing date of December 11, 2003 along with the rest of the specification.

The Notice to File Missing Parts dated April 5, 2004 stated that pages 29-35 appear to have been omitted from the application as filed. The Notice further stated that if applicant contends that these pages were in fact deposited in the USPTO with the nonprovisional application papers, a copy of the Notice and a petition (and \$130.00 petition fee) with evidence of such deposit must be filed within two months of the date of the Notice.

To that end, we attach here (1) a copy of the April 5, 2004 Notice, (2) this petition, (3) a transmittal letter requesting that the petition fee of \$130 be charged to

U.S. application of NIKOLICH et al.

applicants' deposit account, (4) evidence that pages 29-35 were part of the original deposit (copy of date-stamped postcard receipt and copy of certificate of express mailing), and (5) a copy of pages 29-35 of the specification so that the USPTO's copy of the application is complete.

Both the copy of the date-stamped postcard receipt and the copy of certificate of express mailing indicate that the December 11, 2003 filing included a U.S. utility application having 58 pages. Pages 29-35 were included with the 58 pages.

We therefore petition that pages 29-35 be included in the specification as originally-filed on December 11, 2003, because these pages were part of that submission as evidenced by the attached the date-stamped postcard receipt and the copy of certificate of express mailing.

Regarding the other items noted as missing in the Notice to File Missing Parts (i.e., signed declaration, surcharge for filing late declaration, replacement drawings, and corrected sequence listing), we will be providing all of these things separately from this submission, but within the statutory timeline.

If the petitions officer has any questions, please contact applicants' representative Marlana Titus at (301) 977-7227.

Respectfully submitted,



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RECEIVED IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED IN THE FOLLOWING U.S. PATENT APPLICATION:

US Patent Application of NIKOLICH et al.

Serial No.: not known

Title: Immunogenic Compositions Including Rough Phenotype Brucella Host Strains and
Complementation DNA Fragments
Priority claimed from US Provisional applications 60/433,164 (filed 12-12-02) and 60/503,016
(filed 9-15-03)

Filed: December 11, 2003

Attorney Docket No: Army 176

The following was filed via Express Mail on December 11 2003:

- (1) Utility Patent Application Transmittal Letter (4 pages, in duplicate) (large entity)
(2) U.S. utility application (58 pages, including 10 sheets of figures)
(3) Claim for priority (1 page)
(4) Sequence Listing in paper form (4 pages) and Computer Readable Form (diskette)
(5) Statement Accompanying Sequence Listing (2 pages)
(6) Certificate of Express Mailing (1 page)
(7) Postcard receipt listing all enclosed items

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10/733691



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In Re Application of

NIKOLICH et al.

Group Art Unit: not known

Application No. not known

Examiner: not known

Priority claimed from: U.S. Provisional applications 60/433,164 (filed December 12, 2002), and 60/503,016 (filed September 15, 2003)

Filed: December 11, 2003

For: Immunogenic Compositions Including Rough Phenotype Brucella Host Strains and Complementation DNA Fragments

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CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 C.F.R. 1.10)

I hereby certify that the following correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 in an envelope addressed to: The Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on December 11, 2003:

- (1) Utility Patent Application Transmittal Letter (large entity) (4 pages, in duplicate)
- (2) US Utility application (58 pages, including 10 sheets of Figures)
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